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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Lynda Buvel, Joy M. Corson, Dan Kalie, Srilatha
Kuntumalla, Jennifer Rina McDermott, Steven
Stryker and all similarly situated individuals,

Plaintiffs,

v.

Bristol Myers Squibb Co., a Delaware
corporation doing business in all relevant states,

Defendant.

Case No.

Complaint

(Request for Jury Trial)

Plaintiff, by and through counsel, for their alleged Complaints, allege as follows:

1. This action arises out of Defendants Bristol Myers Squibb's discrimination and retaliation against Plaintiffs due to her religious beliefs and health condition.
2. Plaintiffs hold sincerely held religious belief that the tenets of their faith prohibit her from receiving the SARS-CoV-2 virus, (hereinafter "Covid-19") vaccination,
3. The company, BMS, recognized, for many, their sincerity of their belief when it granted Plaintiffs several days and weeks of exemption from Defendant's Corporate requirement to be vaccinated against Covid, or be terminated, and instead allowed Plaintiffs to work remotely, without incident.

- 1 4. During the period of Plaintiffs' exemption from the Corporate requirement that they be
2 vaccinated against Covid, Plaintiffs and Defendant, as well as other Defendant's'
3 employees who were in the same or similar position as these Plaintiffs were all permitted
4 to work from home – 100% of the time - - to protect them from the surge of Covid.
5
- 6 5. On or about January 2022, Defendants extended the ability of their employees who did
7 not share in Plaintiff's religious beliefs to work from home until later in 2022, at which
8 time those who did share in Plaintiff's religious beliefs were denied any accommodation
9 to continue to work from home, but be terminated if the employees did not obtain the
10 Covid-19 vaccine.
11
- 12 6. By terminating Plaintiffs' employment, Defendant violated Americans with Disabilities
13 Act, Title VII of the Civil Rights Act, Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e
14 et seq (1964), and the New Jersey Law Against Discrimination (N.J.S.A. § 10:5-1, et
15 seq.) by treating Plaintiffs unlawfully – in a disparate manner -- compared to other
16 employees who did not share such religious beliefs or have such medical conditions.
17
- 18 7. Moreover, in violation of the New Jersey Law Against Discrimination, Defendant
19 retaliated against Plaintiff when it terminated her for requesting a religious
20 accommodation.
21
- 22 8. As a result of Defendant's illegal discrimination and retaliation, in violation of the above
23 Federal and State Laws, Plaintiff has lost wages and suffered emotional distress.
24 Plaintiff seeks economic and emotional distress damages, punitive damages, pre and
25 post judgment interest, and reasonable attorneys' fees and costs.
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JURISDICTION AND VENUE

9. The United States District Court has original jurisdiction over this matter pursuant to 28 U.S.C. section 1332(a)(1)(“diversity jurisdiction”) because there exists complete diversity between the parties, pursuant to 28 U.S.C. §§ 1331, and 1343 and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

10. Venue in the United States District Court for the District of New Jersey is proper because these unlawful employment practices and injuries to Plaintiff occurred in the Lawrenceville, and/or Princeton, Mercer County, and State of New Jersey, to wit: United State District Court located in Trenton New Jersey.

ADMINISTRATIVE COMPLIANCE

11. Plaintiffs each filed with the EEOC and each received a Right to Sue notice from the EEOC which permits the filing of their Title VII and ADA claims. Plaintiffs have done so within the time provided by law. Plaintiffs received a “Right-to-Sue” letter from the EEOC and have filed this action prior to the expiration of Ninety (90) days with the United States District Court.

12. All conditions precedent to the institution of this lawsuit have been fulfilled.

PARTIES:

13. Plaintiff Lynda Buvel (“Buvel”) is and was a citizen and resident of New Jersey at all relevant times. Buvel was hired by BMS and terminated on December 6, 2021 after being denied a requested accommodation and/or exception. On January 5, 2021, Buvel filed a charge with the EEOC for retaliation and religious discrimination. She received a Right to Sue on September 7, 2022.

1 14. Plaintiff Joy M. Corson (“Corson”) is and was a citizen and resident of Pennsylvania at
2 all relevant times. Corson was hired by BMS and terminated on December 6, 2021 after
3 being denied a requested accommodation/exception. On October 12, 2022, Corson filed
4 a charge with the EEOC for retaliation and religious discrimination. She received a
5 Right to Sue on September 7, 2022.
6

7 15. Plaintiff Dan Kalie (“Kalie”) is and was a citizen and resident of Pennsylvania at all
8 relevant times. Kalie was hired by BMS and terminated on December 6, 2021, after
9 being denied a requested accommodation/exception. He filed a charge with the EEOC
10 on December 6th, 2021. He received a Right to Sue on September 1, 2022.
11

12 16. Plaintiff Srilatha Kuntumalla (“Kuntumalla”) is and was a citizen and resident of New
13 Jersey at all relevant times. Kuntumalla was hired by BMS and terminated on December
14 6, 2021, after being denied a requested accommodation/exception. On August 4, 2022,
15 Kuntumalla received her Right to Sue letter from the EEOC based upon retaliation and
16 religious discrimination.
17

18 17. Plaintiff Jennifer Rina McDermott (“McDermott”) is and was a citizen and resident of
19 New York at all relevant times. McDermott was hired by BMS and terminated on
20 February 12, 2022 after being denied a requested accommodation/exception. Ms.
21 McDermott received her Right to Sue letter from the EEOC on September 30, 2022.
22

23 18. Plaintiff Steven Stryker (“Stryker”) is and was a citizen and resident of New Jersey at
24 all relevant times. Stryker was hired by BMS and terminated on December 5, 2021 after
25 being denied a requested accommodation/exception. Stryker filed a charge with the
26 EEOC for retaliation and religious discrimination. He received a Right to Sue on
27 September 8, 2022.
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1 19. Defendant Bristol Myers Squibb Co. (“BMS”) is a foreign corporation doing business in
2 all states that employ said Plaintiffs. BMS is incorporated under the laws of Delaware.
3 It maintains its corporate headquarters in New York City, New York, and has a
4 significant present and does business throughout the State of New Jersey, with a
5 principal headquarters in Lawrence Township New Jersey. BMS has more than 15
6 employees and employed all Plaintiffs at various relevant times as set forth herein.
7

8 JURISDICTION

9
10 20. BMS, at all relevant times, has continuously been an employer engaged in an industry
11 affecting commerce within the meaning of 42 U.S.C. § 12111(7), which incorporate
12 by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. § 2000e(g) and (h).
13

14 21. Jurisdiction is appropriate in this Court pursuant 28 U.S.C. §§ 1331, 1367, and 2201.
15 The claims arise under state law and federal law as to claims including Americans with
16 Disabilities Act, 42 U.S.C. § 12112 et seq. and Title VII of the Civil Rights Act of 1964.
17

18 22. Venue is appropriate in the District of New Jersey based on the substantial part of the
19 events giving rise to the claims occurred as to several Plaintiffs under 28 U.S.C. § 1391
20 and the substantial scope of operations and presence of BMS in New Jersey.
21

22 23. Plaintiffs bring this action and seeks injunctive and declaratory relief from a Corporate
23 Policy that affects thousands of employees in the States of New Jersey, New York,
24 and Pennsylvania, including Plaintiffs, and effectively nullifies Title VII and the
25 parallel protections of the various state laws.
26

27 24. Many other employees who will be joined in this action have pending claims before the
28 EEOC and Plaintiffs reserve the right to amend this Complaint when Right to Sue
Letters are issued.

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SUMMARY OF CLAIMS

25. BMS is a drug manufacturer with locations throughout the world.

26. All Plaintiffs are former employees of BMS, and upon the date of their illegal termination, were performing their jobs satisfactorily.

27. BMS mandated an illegal requirement that all employees be vaccinated from the Covid-19 virus.

28. BMS however, publicly represented that it would allow for two exemptions from the vaccine, i.e., Medical and Religious.

29. Each of these Plaintiff's maintained a medical and religious exemption that was ignored by BMS, and in fact, BMS did not maintain a valid policy for its to exemptions from the Vaccine mandate.

30. Plaintiffs, all very high level employees with years of experience and education, became aware and expressed to BMS concerns about the general safety of the shot called a "vaccine" that had not been properly tested nor proven to be safe or effective.

31. Plaintiffs had learned and expressed to others that there had been no conclusive evidence that "vaccinated" people cannot transmit Covid.

32. For this reason, as well as their own medical and religious reasons, each Plaintiff submitted a request for an exemption from the BMS policy obligating its employees to be vaccinated or be terminated.

33. Plaintiffs, therefore, bring this action in part under Title VII of the Civil Rights Act, Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964), 42 U.S.C. § 2000e-3(a) alleging that Defendant discriminated against them and failed to accommodate their

1 sincerely held religious beliefs and subsequently wrongfully terminated them for
2 failing to follow an arbitrary “vaccine requirement.”

3
4 34. Plaintiffs bring this action under the Title VII and Americans with Disabilities Act, and
5 NJ State Law for BMS’s failure to accommodate a medical condition and/or religious
6 belief that would be unlawfully requires the Plaintiffs to be vaccinated contrary to their
7 health obligation and religious beliefs.

8
9 35. All Plaintiffs further allege breach of contract and good faith and fair dealing under state
10 law as set forth below.

11
12 36. In early 2020, a claimed worldwide pandemic was declared over a virus that caused flu-
13 like symptoms in some, more serious complications in others, and no effect to yet other
14 people. The virus was called SARS-CoV-2 (“Covid”).

15
16 37. In 2020, SARS-CoV-1 also led to attempts to develop a vaccine. However, numerous
17 articles in medical journals raised concerns including one entitled “Immunization with
18 SARS coronavirus vaccines leads to pulmonary immunopathology on challenge with
19 the SARS virus.” It concluded that “Caution in proceeding to application of SARS-
20 CoV vaccine in humans is indicated.”

21
22 38. In 2020, there was a push to obtain a “vaccine” to stop the spread of Covid. The CDC
23 changed its definition of vaccine from “a product that stimulates a person’s immune
24 system to produce immunity to a specific disease, protecting the person from that
25 disease” to “a preparation that is used to stimulate the body’s immune response against
26 diseases.” The public health agency also changed its definition of “vaccination.”

27
28 39. In 2020, different shots were developed that claimed to lessen the effects of the virus
yet they were marketing to the public as vaccines. These shots never went through

1 formal Food and Drug Administration approval as required by law, but instead, were
2 partially approved under an emergency order.

3 40. Since 2020, many studies have shown that the Covid shots had caused other medical
4 conditions as well, thus further troubling Plaintiffs who suffer from health conditions.

5 41. Numerous companies closed their doors for lengthy periods of time, however, by
6 September 2021, most businesses had reopened and many people had either had Covid,
7 were immune from Covid or had received one or more shots.

8 42. Despite the downturn in Covid issues and without any medical evidence to support the
9 Covid shots being vaccines that prevented the virus, in 2021, BMS created a Covid
10 vaccination policy, and rolled it out on or around September 7, 2021. Prior to that date,
11 there was no vaccination policy at BMS for any illness.

12 43. The policy required of its United States employees to be fully vaccinated against Covid-
13 19 by November 1, 2021.

14 44. When BMS concocted its policy, no consideration was given for the change in contract
15 terms and the Plaintiffs were told to either comply or lose their jobs.

16 45. Also, when BMS announced its policy, it advised employees that it would allow
17 requests for accommodations/exemptions under the law, yet it received, and arbitrarily
18 denied all requests from all Plaintiffs.

19 46. No appeal process was ever established for the aggrieved employees including the
20 Plaintiffs, and therefore BMS' unilateral and arbitrary determination stood as judge and
21 jury without a fair deliberative process.

22 47. After internal claims of discrimination were made through Defendant's "independent
23 site," many of the claims were denied without investigation within 24 business hours.

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1 48. BMS required the shot as a condition of employment by embedding it in a lengthy (35
2 page) document. Information on submitting religious and medical exemptions was also
3 included in this document in the Frequently Asked Questions portion (#28 & #29).

4
5 49. BMS then had an all company broadcast call to give Employees information on how
6 “safe and effective the vaccines were.” At that time they were told to submit religious
7 and medical exemptions if needed.

8 50. All Plaintiffs in this Complaint were employed by BMS at the time the “vaccine policy”
9 was implemented, and submitted for exemptions and all were denied and terminated.

10
11 51. Despite these requests, BMS terminated the employment of each and all Plaintiffs for
12 refusing a covid vaccination shot that had only emergency approval by the government
13 and had no long-term studies to show potential risks to the Plaintiffs.

14 52. BMS instituted processes to encourage employee vaccination. The Company’s rollout
15 included the threat of “for cause” involuntary termination if employees did not receive
16 a Covid-19 vaccination.

17
18 53. As an exception to its Policy, however, BSM included a provision to accept and consider
19 individual employees’ requests for a medical or religious accommodation from its
20 vaccination policy which was not followed.

21
22 54. Given that there have been constant changes to recommendations, claims of
23 effectiveness, forced shutdowns proven unlawful or ineffective, questions on safety, and
24 flip-flopping on medical claims, the forced Covid shot by BMS to those who have
25 medical concerns or religious concerns is unconscionable given that there is nothing
26 showing an unvaccinated person is a danger.

27
28 **Additional Facts Specific to Individuals**

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1 55. Lynda Buvel, was productive and promoted by the company

2 56. Joy M. Corson, was productive and promoted by the company

3 57. Dan Kalie, was productive and promoted by the company.

4 58. Srilatha Kuntumalla, was productive and promoted by the company

5 59. Jennifer Rina McDermott worked for BMS and was terminated due to the decline of her

6 religious exemption. No viable reason was given to her request for an

7 exemption/accommodation despite the option to test for COVID. BMS claimed in the

8 response letter that her termination was because there was a hardship for BMS for

9 testing/etc., she was aware that the company was already testing all of their vaccinated

10 employees. She was also put on unpaid leave when other colleagues were not despite

11 BMS' knowledge that she had preplanned paid vacation scheduled the following week.

12 60. Steven Stryker was productive and promoted by the company.

13 **Legal Claims**

14 **COUNT ONE**

15 **ASSAULT/BATTERY**

16 **18 U.S.C. § 351(e) or in the alternative State common law**

17 61. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if fully

18 set forth herein.

19 62. Under 18 U.S.C. § 351(e). an assault can also be committed "merely by putting another

20 in apprehension of harm whether or not the actor actually intends to inflict, or is capable

21 of inflicting that harm." *Ladner v. United States*, 358 U.S. 169, 177 (1958). Proof of this

22 form of assault requires establishment of a reasonable apprehension of the immediate

23 application of force to the victim.

1 63. If an employer receives notice from an employee that the employee's sincerely held
2 religious beliefs, practices or observances prevent the employee from taking the
3 COVID-19 vaccination, the employer shall provide a reasonable accommodation unless
4 the accommodation would pose an undue hardship and more than a *de minimus* cost to
5 the operation of the employer's business.
6

7 64. The BMS employees who declined vaccination knew it would not have been approved
8 and marketed had it been developed by BMS. They wanted to protect the company,
9 shareholders, general public by not being complicit in forcing dangerous vaccine
10 mandates on all of their potential customers and patients.
11

12 65. They were doing their job a fulfilling the professional obligation to BMS and its
13 shareholders.
14

15 66. In a commentary published in Cal Matters April 8, 2022, Dr. Eileen S. Natuzzi , a public
16 health epidemiologist stated:

17 **“...While COVID-19 vaccines do provide some protection against serious and**
18 **life-threatening infections, they do not block transmission. That makes**
19 **vaccination a personal health choice based upon individual risk. It does not**
justify mandating vaccination.”

20 67. Mandates for a vaccine that does not block transmission are discriminatory. They force
21 unvaccinated individuals to comply in order to attend school or keep their job. This is
22 discrimination by coercion: Vaccinated individuals are as likely to spread viral particles
23 as unvaccinated people, yet their activities are not restricted. The reasoning behind these
24 mandates is not supported by current science-based data. Effectively, if people feel ill,
25 they should get tested and stay home.
26

27 68. Why management at BMS imposed the vaccine mandate and terminated the very people
28 who were doing their best to protect the company and patients is incomprehensible.
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1 69. Their motives at this point are speculative but the documents and correspondence that
2 led them to assault their own workforce with an experimental and potentially very
3 dangerous vaccine must be produced for the Court.

4
5 70. Forcing employees without informed consent to put a substance into their bodies is
6 aggravated assault.

7 71. Denying the Company's obligation to shareholders to avoid being complicit in such
8 assaults, risks a derivative action that could damage the stock of all shareholders. That
9 includes employees and the pension funds they depend on for their welfare.

10
11 72. Such an arbitrary and capricious decision is reprehensible, unethical and criminal and
12 caused damage to Plaintiffs.

13 **COUNT TWO**

14 **(Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964) – Title XII Religious**
15 **Discrimination – Failure to Accommodate)**

16 73. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if
17 fully set forth herein.

18
19 74. Plaintiffs falls within a protected class as they have bona fide religious beliefs that
20 conflicts with an employer's general requirements that were adopted after the
21 employment began.

22 75. Plaintiffs, through their submission of accommodation requests, informed BMS of their
23 religious beliefs and the fact that BMS's vaccine requirement created a conflict with
24 their religious beliefs.

25
26 76. Plaintiffs' religious belief, specifically their objection to mRNA vaccines, was not
27 accommodated by Defendant BMS.

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1 77. Plaintiffs were fired for a failure to take a shot which would create a conflict with their
2 sincerely held beliefs due to the use of fetal cells in the shot.

3 78. Plaintiffs' request, either to work at the facility without the vaccine or continue to work
4 remotely, could have reasonably been accommodated without any undue hardship to
5 BMS.
6

7 79. Title VII prohibits employers from discrimination against any individual with respect
8 to "compensation, terms, conditions, or privileges of employment, because of such
9 individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a). "A
10 plaintiff may show discrimination by direct evidence, or a plaintiff lacking direct
11 evidence of discrimination may succeed on a Title VII claim by presenting indirect
12 evidence under the framework first set forth in *McDonnell Douglas*" *Redlin v.*
13 *Grosse Pointe Pub. Sch. Sys.*, 921 F.3d 599, 606 (6th Cir. 2019).
14
15

16 80. A plaintiff can establish a *prima facie* case of disparate treatment discrimination under
17 Title VII by showing (1) he or she is a member of a protected group; (2) was subjected
18 to an adverse employment action; (3) was qualified for the position; and (4) either
19 similarly situated, non-protected employees were treated more favorably or was
20 replaced by someone outside of her protected class. *Younis v. Pinnacle Airlines, Inc.*,
21 610 F.3d 359, 363 (6th Cir. 2010).
22

23 81. A plaintiff can establish a *prima facie* case of failure to accommodate under Title VII
24 by showing: "(1) he holds a sincere religious belief that conflicts with an employment
25 requirement; (2) he has informed the employer about the conflicts; and (3) he was
26 discharged or disciplined for failing to comply with the conflicting employment
27
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requirement." *Bolden v. Lowes Home Centers, LLC*, 783 F. App'x 589, 597 (6th Cir. 2019) (quoting *Tepper v. Potter*, 505 F.3d 508, 514 (6th Cir. 2007)).

82. BMS failed to provide Plaintiffs an accommodation causing damages to Plaintiffs due to the discrimination.

COUNT THREE

(Civil Rights Act of 1964 § 7, 42 U.S.C. § 2000e et seq (1964) – Title XII Religious Discrimination – Wrongful Termination)

83. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if fully set forth herein.

84. Plaintiffs fall within a protected class as they hold bona fide religious beliefs that conflict with an employer's general requirements.

85. Prior to Plaintiffs' termination, they were performing their jobs satisfactorily.

86. Plaintiffs were fired for a failure to take a shot which would create a conflict with their sincerely held beliefs due to the use of fetal cells in the shot.

87. Plaintiffs' terminations were therefore based on their sincerely held religious beliefs and BMS discriminated against their sincerely held beliefs.

88. Title VII prohibits employers from discrimination against any individual with respect to "compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin." 42 U.S.C. § 2000e-2(a). "A plaintiff may show discrimination by direct evidence, or a plaintiff lacking direct evidence of discrimination may succeed on a Title VII claim by presenting indirect evidence under the framework first set forth in *McDonnell Douglas*" *Redlin v. Grosse Pointe Pub. Sch. Sys.*, 921 F.3d 599, 606 (6th Cir. 2019).

89. Plaintiffs were damaged due to said illegal termination.

COUNT FOUR

(Violation of the ADA-Discrimination/Failure to Accommodate)

90. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if fully set forth herein.

91. Here, Plaintiffs were discriminated against in the workplace when their employment contract was terminated/not renewed after they raised health concerns that prevented them from safely complying with BMS' policy, issues of which BMS was aware of yet failed to accommodate.

92. The ADA provides that "no covered entity shall discriminate against a qualified individual on the basis of disability in . . . the . . . discharge of employees." 42 U.S.C. § 12112(a).

93. Plaintiffs were "disabled" within the meaning of the ADA, they were qualified for the job and able to perform the essential functions of the job and BMS terminated their employment because of their disabilities.

94. The ADA prohibits "adverse employment decisions motivated, even in part, by animus based on plaintiff's disability or request for an accommodation—a motivating factor standard." *Head v. Glacier Nw., Inc.*, 413 F.3d 1053, 1065 (9th Cir. 2005), abrogated on other grounds by *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 133 S.Ct. 2517, 2533 (2013).

95. Plaintiffs were denied an exemption or other accommodation despite their medical needs preventing them from safely getting a Covid shot.

96. Plaintiffs were damaged by the actions of BMS in violation of the law.

COUNT FIVE

**(New Jersey Law Against Discrimination – N.J.S.A. § 10:5-1 et. seq
-Religious Discrimination – Failure to Accommodate and/or Wrongful
Termination)**

97. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if fully set forth herein.
98. Plaintiffs fall within a protected class as they have a bona fide religious belief that conflicts with an employer's general requirements.
99. Plaintiffs, through their submission of accommodation requests, informed BMS of their religious beliefs and the fact that BMS's vaccine requirement created a conflict with their religious beliefs.
100. Plaintiffs' religious beliefs, specifically their objection to mRNA vaccines, were not accommodated by Defendant BMS.
101. Plaintiffs' requests to either to work at the facility without the vaccine or continue to work remotely, could have reasonably been accommodated without any undue hardship to BMS.
102. BMS never truly engaged with Plaintiffs in the interactive process to assess the religious exemption. The numerous questionnaires sent to employees seeking religious exemptions were clearly not in good faith, as indicated by the numerous "gotcha" questions and invasive requests such as access to employees' medical records.
103. The NJLAD prescribed requirements that Defendant BMS was required to follow upon receipt of a request for religious exemption from the COVID-19 vaccination policy.

1 104. The NJLAD prohibits an employer, such as Defendant BMS, from retaliating against
2 an employee who asserts their protected rights under the NJLAD.

3 105. The NJLAD protects the rights of persons with sincerely held religious beliefs.

4 106. Defendant BMS wrongfully denied requests for religious exemption as supposedly
5 not meeting the standard for exemption, in violation of the NJLAD.

6 107. The NJLAD prohibits BMS from retaliating against an employee who seeks a
7 religious exemption from the COVID-19 vaccination policy.

8 108. "New Jersey recognizes a claim for wrongful termination of an at-will employee when
9 the discharge is contrary to a clear mandate of public policy. Sources of public policy
10 include legislation; administrative rules, regulations or decisions; and judicial
11 decisions." *Hampton v. Armand Corp.*, 364 N.J. Super. 194, 199, 834 A.2d 1077,
12 1080 (App. Div. 2003).

13 109. Upon receipt of the requests for religious exemption from all Plaintiffs, BMS
14 wrongfully terminated Plaintiffs as employees causing damages.

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18 **COUNT SIX**

19 ***(Declaratory Judgment Regarding Violations of Title VII Civil Rights Act of 1964 § 7, 42***
20 ***U.S.C. § 2000e et seq (1964) and the New Jersey Law Against Discrimination (NJSA §***
21 ***10:5-1, et seq.)***

22 110. Plaintiffs hereby repeat and reallege each of the above-mentioned paragraphs as if
23 fully set forth herein.

24 111. Plaintiff seeks relief under the New Jersey Declaratory Judgment Act, N.J.S.A.
25 2A:16-50 et seq. and the United States Declaratory Judgment Act, 28 U.S.C. §§ 2201-
26 2202, which allows parties to sue for a judicial declaration in order to declare and
27 settle the rights and obligations of the parties.
28

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1 112. It is respectfully demanded that this Court may declare the rights and other legal
2 relations of an interested party seeking a declaratory judgment, whether or not other
3 relief is or could be sought or granted.
4

5 113. There is an actual controversy within this Court's jurisdiction regarding whether
6 BMS' policy requiring its employees to become vaccinated prior to continued
7 employment, as being contrary to Title VII and the New Jersey Law Against
8 Discrimination, which applies to BMS' conduct as alleged in this Complaint.
9

10 114. Plaintiff, therefore, seeks a declaratory judgment that BMS' cease all requirements of
11 its employees requiring those who hold a sincerely religious belief to be vaccinated
12 from the Covid-19 virus prior to returning to work, and that this Court declare that
13 BMS' policy requiring such be held null and void, contrary to law.
14

15 115. Plaintiff seeks a declaration that BMS' "Vaccination Policy" runs contrary to and is
16 in violation of the Federal and State Constitution, the LAD and New Jersey state
17 public policy.
18

19 116. The NJ LAD requires employers to maintain an effective anti-discrimination policy
20 in place that includes the employer may not discrimination against its employees
21 based upon Religion.
22

23 117. Title VII Civil Rights Act of 1964 § 7 requires employers to maintain an effective
24 anti-discrimination policy in place that includes the employer may not discrimination
25 against its employees based upon Religion, and provides:
26

(a) Employer practices

It shall be an unlawful employment practice for an employer -

**(1) to fail or refuse to hire or to discharge any individual, or otherwise to
discriminate against any individual with respect to his compensation, terms,**

- 1 conditions, or privileges of employment, because of such individual's race,
2 color, religion, sex, or national origin; or
3 (2) to limit, segregate, or classify his employees or applicants for employment
4 in any way which would deprive or tend to deprive any individual of
5 employment opportunities or otherwise adversely affect his status as an
6 employee, because of such individual's race, color, religion, sex, or national
7 origin.

8 118. The New Jersey Law Against Discrimination provides:

9 **It shall be an unlawful employment practice, or, as the case may be, an unlawful
10 discrimination:**

11 a. **For an employer, because of...**

- 12 q. (1) **For any employer to impose upon a person as a condition of
13 obtaining or retaining employment, including opportunities for
14 promotion, advancement or transfers, any terms or conditions that
15 would require a person to violate or forego a sincerely held religious
16 practice or religious observance,...**

17 119. Under Title VII Civil Rights Act of 1964 NJ and the Law Against Discrimination,
18 BMS "is directly and strictly liable for all equitable damages and relief to the extent
19 any state employees, who is subjected to discrimination or sexual harassment
20 [including but not limited to Plaintiff,] seeks equitable remedies, that is, restoration to
21 the terms, conditions and privileges of employment the employee would have enjoyed
22 but for the workplace discrimination or harassment.

23 120. Plaintiff seeks a declaration that the BMS' Policy, and all of its proposed revisions,
24 are ineffective as a matter of law and in violation of the Federal and State Constitution,
25 Title VII, NJ LAD and Public Policy.

26 **WHEREFORE**, Plaintiff requests this Court to:

- 27 a. Issue a Declaratory Judgment that BMS is to cease any and all operations,
28 implement and enforce any policy that requires its Employee how hold sincerely
religious beliefs to be vaccinated prior to continued employment.

- 1 b. Enter a Declaratory Judgment that BMS has violated Federal and State law by
2 predetermining that its Policy requiring its Employees to be vaccinated for the
3 Covid-19 virus as null and void.
- 4 c. Enter a Declaratory Judgment that BMS that BMS must immediately stay or
5 restrain and preliminarily and permanently enjoin BMS from implementing and
6 enforcing any Policy that mandates its Employees be vaccinated from the Covid-
7 19 virus as it has violated Federal and State law.
- 8 d. Enter a Declaratory Judgment that BMS' means and methods used to determine
9 that an Employee does not hold s sincerely religious belief is arbitrary and
10 capricious without merit and must be deemed null and void.
- 11 e. Enter a Declaratory Judgment that BMS to eliminate BMS' Policy, and in its
12 sole discretion to determine its Employees' sincerely held religious beliefs as
13 legitimate or not, but permit the Employee and its Religious Tenants to be
14 declared sufficient as a sincerely held religious belief.
- 15 f. Award Plaintiff her reasonable costs, including reasonable attorney fees,
16 incurred in this Declaratory Judgment action.
- 17 g. Award such other and further relief as the Court deems just and proper.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, the Plaintiffs seek declaratory and injunctive relief as follows:

- 20 A. Declaratory relief;
- 21 B. Compensatory damages;
- 22 C. Loss of wages, benefits, earnings and earning capacity;
- 23 D. Emotional and mental damages;
- 24 E. Punitive damages;
- 25 F. Costs and attorney's fees.
- 26 G. Such other relief as this Court deems fair and equitable.

27 DATED this day of October, 2022.

28 By:/s/ Jamison M. Mark
The Mark Law Firm, LLC
Local Counsel

By:/s/ Robert L. Mabee
Robert L. Mabee
Attorney for Plaintiffs

1 **DESIGNATION OF TRIAL COUNSEL**

2 Trial Counsel is hereby designated as Robert Mabee, Esq.
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6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands trial by jury of all issues triable by jury.
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